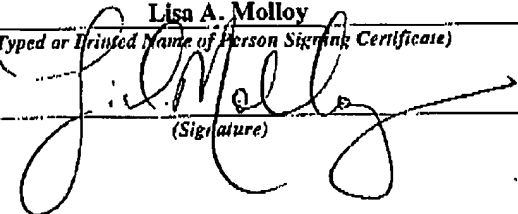


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CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)			Docket No. PHD 97-074A
Applicant(s): Haupt et al.			
Serial No. 09/090,035	Filing Date 06/10/1998	Examiner T. Kupstas	Group Art Unit 2153
Invention: Changer Apparatus for Information Discs			
<p>I hereby certify that this <u>Reply Brief of Appellants (13 pgs.)</u> 703-746-5498 <small>(Identify type of correspondence)</small></p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>703-308-7201</u>)</p> <p>on <u>July 16, 2003</u> <small>(Date)</small></p> <div style="text-align: right; margin-top: 50px;"> <u>Lisa A. Molloy</u> <small>(Typed or Printed Name of Person Signing Certificate)</small>  <small>(Signature)</small> </div>			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s) : **Haupt *et al.***
Appl. No. : **09/090,035**
Filed : **06/10/1998**
Title : **Changer Apparatus for Information Discs**
Art Unit : **2153**
Examiner : **T. Kupstas**
Dkt. No. : **PHD 97-074A**

Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF OF APPELLANTS

This Reply Brief addresses issues raised in the Examiner's Answer mailed May 20, 2003.

Claim 1: Issue 1

The Examiner's Answer responded to Appellants' assertion that Umesaki does not teach or suggest a "curve-shaped loading path" as required by claim 1. The Examiner acknowledged that claim 1 is limited by the following definition of a "curve-shaped loading path " on page 1, lines 22-27 of Appellants' specification: "A curve-shaped loading path is to be understood to mean that the loading path extends non-orthogonally with respect to the front side of the changer apparatus and, consequently, that between the eject position and the loading position the information discs perform a lateral relative movement parallel to the front side of the changer apparatus. Thus, a curve-shaped loading path also includes a **linear loading path which extends**

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obliquely with respect to the front side of the changer apparatus" (emphasis added).

In response to the preceding definition, the Examiner's Answer alleged that: "the claim states that it is a "curve-shaped loading path". This path can be clearly seen in, figs. 6 and 7 of Umesaki. Umesaki clearly meets any common-sense definition of what a "curve-shaped loading path" is ... The Examiner notes that the definition is broad and covers that which is found in Umesaki". See Examiner's Answer, page 4, lines 13-14. The preceding argument by the Examiner is the only argument the Examiner has made in the Examiner's Answer to support the Examiner's allegation that Umesaki teaches the "curve-shaped loading path" as defined in Appellants' specification as required by claim 1.

In Reply to the Examiner's Answer based on the preceding definition of "curve-shaped loading path", Appellants contend that claim 1 requires that a portion of a curve-shaped loading path must be **linear** and must also be **oblique** with respect to the **front side** of the changer apparatus. Appellants emphasize that the **same portion** of the loading path must be linear and oblique respect to the front side of the changer apparatus.

The Examiner has cited Figures 6 and 7 of Umesaki for disclosure of a curve-shaped loading path. However, Figures 6 and 7 of Umesaki do not show a portion of a loading path that is linear. Linearity is evidenced by a straight line passing through at least three consecutive points, which is clearly not shown in Figures 6 and 7 of Umesaki. Appellants contend that it is mathematically impossible to infer from only two points on a curve whether or not the curve is linear between the two points. The disk motions shown in Figures 6 and 7 of Umesaki show a nonlinear path with no linear portion therein. Additionally, even if Figures 6 and 7 of Umesaki does disclose a linear portion of a loading path (which they do not), Figures 6 and 7 of Umesaki

do not disclose a linear portion of a loading path that is also oblique to the front side of the changer apparatus. Indeed, the location of the front side of the changer apparatus is not even identified in Figures 6 and 7 of Umesaki.

Appellants contend that the Examiner has provided no analysis or argumentation to support his allegation that Figures 6 and 7 of Umesaki discloses "curve-shaped loading path" other than the Examiner's allegation that: "The Examiner notes that the definition is broad and covers that which is found in Umesaki" which is conclusory and devoid of any analysis whatsoever. Therefore, since the rejection of claim 1 requires that Umesaki teach or suggest a "curve-shaped loading path" which the Examiner has not persuasively supported, Appellants contend that the Examiner has not established a *prima facie* case of obviousness in relation to claim 1, and the rejection of claim 1 should accordingly be reversed.

Claim 1: Issue 2

The Examiner's Answer stated the following allegation in support of modifying Nakamichi with Umesaki's alleged "curve-shaped loading path": "the Examiner contends that it would have been obvious to have modified Nakamichi with its traditional structure, that provides for storing multiple disks, with the Umesaki's teaching of using a curved path for loading that would reduce the **overall shape** of the disk player" (emphasis added). Appellants contend that the phrase "reduce the **overall shape**" makes no sense, and it is likely that the Examiner intended the preceding phrase to instead be "reduce the **overall length**" which is consistent with the Examiner's stated reason for combining Umesaki with Nakamichi in the Office Action mailed 12/19/2002 ("One of ordinary skill would have been motivated by the

teaching of Umesaki to have modified the transporting system of Nakamichi with the means for providing the curved transportation path as taught by Umesaki, thereby having provided means for transporting the disk that would reduce the **overall length of a disk drive**" (emphasis added)).

In Reply to the Examiner's Answer, Appellants hereby challenge the Examiner's allegation in the Examiner's Answer that one of ordinary skill would have concluded that use of Umesaki's loading path would reduce the overall length of Nakamichi's disk drive. This conclusory allegation by the Examiner not supported with any analysis or argument to convince the reader that the preceding allegation by the Examiner is correct. Appellants have no idea what the Examiner's rationale is for alleging that use of Umesaki's loading path would reduce the overall length of Nakamichi's disk drive, because the Examiner has not disclosed his rationale. In the absence of persuasive argumentation to support the Examiner's preceding allegation, Appellants contend that has not established a *prima facie* case of obviousness in relation to claim 1, and the rejection of claim 1 should accordingly be reversed.

Claim 1: Issue 3

The Examiner's Answer stated an argument in response to Appellant's argument in Appellant's Supplemental Appeal Brief that modifying Nakamichi's invention with Umesaki's loading path would destroy Nakamichi's invention by necessitating such extensive modifications of Nakamichi as to make such modification of Nakamichi nonobvious. In particular, the Examiner's Answer stated: "the combination would not destroy the teaching of the references, it would merely require a restructuring of the loading mechanism of Nakamichi to accomplish curve shaped loading. Such a restructuring would require different transport tools, such as the

pivotal arms, but overall the basics of the disk players would not be destroyed as asserted by the Applicant."

In Reply to the Examiner's Answer, Appellants contend that the Examiner has oversimplified the extent of structural modifications of Nakamichi that would be necessitated by incorporation of Umesaki's loading path into Nakamichi's structure. As stated by the Examiner, the disk transport mechanism would have to be modified to be compatible with Umesaki's loading path. In addition, Umesaki's disk transport mechanism would have to be used since the only disk transport mechanism cited by the Examiner that is compatible with Umesaki's loading path is Umesaki's disk transport mechanism. Retrofitting Umesaki's disk transport mechanism into Nakamichi's structure is very difficult to accomplish and therefore nonobvious, for at least the following reasons relating to the fact that Umesaki's disk transport mechanism is very different from Nakamichi's disk transport mechanism and that Nakamichi's structure is very complex.

A first reason why retrofitting Umesaki's disk transport mechanism into Nakamichi's structure is very difficult to accomplish and therefore nonobvious is that the interface between the Umesaki's disk transport mechanism and Nakamichi's disk ejection structure would have to be redesigned, since Umesaki's disk transport mechanism is very different from Nakamichi's disk transport mechanism.

A second reason why retrofitting Umesaki's disk transport mechanism into Nakamichi's structure is very difficult to accomplish and therefore nonobvious is that the interface between the Umesaki's disk transport mechanism and Nakamichi's disk holding units would have to be redesigned, since Umesaki's disk transport mechanism is very different from Nakamichi's disk

transport mechanism. Such a redesign is not reasonably practical because the essence of Nakamachi's invention involves specific structural features of Nakamachi's disk holding units (see Nakamachi's objection of the invention in col. 2, lines 12-54; see also Nakamachi's claims), and the redesigned interface between Umesaki's disk transport mechanism and Nakamachi's disk holding units would most likely require the structural features of Nakamachi's disk holding units to be redesigned which would destroy Nakamachi's invention.

A third reason why retrofitting Umesaki's disk transport mechanism into Nakamachi's structure is very difficult to accomplish and therefore nonobvious is that Nakamachi's structure is very complex and a major restructuring is thus unavoidable.

Based on the preceding arguments, Appellants contend that modifying Nakamachi's invention with Umesaki's loading path would destroy Nakamachi's invention by necessitating such extensive modifications of Nakamachi as to make such modification of Nakamachi nonobvious. Accordingly, Appellants contend that the rejection of claim 1 is not obvious over Nakamachi over Umesaki and should be reversed.

Claim 3

The Examiner's Answer made reference to the Examiner's argument for claim 3 in the Office Action mailed 12/19/2003.

In Reply to the Examiner's Answer, Appellants likewise make reference to Appellants' Supplemental Appeal Brief for Appellants' argument in relation to claim 3. In addition, Appellants maintain that the Office Action mailed 12/19/2003 does not present an argument addressing the following feature of claim 3: "wherein the play position is offset from a direct

connecting line between the loading position and the eject position”.

Claim 4

The Examiner's Answer is based on assuming that element P2 in Nakamachi is a play position in the loading path. However, the element P2 in Nakamachi's Figures do not identify with specificity where P2 is located. For example in FIGS. 16 and 19 of Nakamachi, P2 identifies either the outer edge of a disk or the whole disk and therefore does not identify a play position. Accordingly, the Examiner's rejection of claim 4 is not persuasive.

Claim 5

The Examiner's Answer made reference to the Examiner's argument for claim 5 in the Office Action mailed 12/19/2003.

In Reply to the Examiner's Answer, Appellants likewise make reference to Appellants' Supplemental Appeal Brief for Appellants' argument in relation to claim 5.

Claim 6

The Examiner's Answer alleges that “element 11 is part of the belt system that moves the disk in the transport direction and is attached to element 81 R which moves the disk and itself moves in the loading plane (see fig. 4). Thus element 11 “is movable in the loading plane”.

In Reply to the Examiner's Answer, Appellants contend that the Examiner has not identified a “loading plane”. The Examiner has referenced FIG. 4 of Nakamachi as disclosing that elements 11 and 81R move in a loading plane. However, the Examiner has not explained

why he characterizes the motion of elements 11 and 81R as moving in a loading plane.

Accordingly, the Examiner's rejection of claim 6 is not persuasive.

Claim 7

The Examiner's Answer alleges that "the arm in Umesaki is pre-loaded in the sense that is where it is at the time prior to loading. Umesaki appears to meet the limitation of the claims, since no specialized meaning is given to the term "pre-loaded.""

In Reply to the Examiner's Answer, Appellants note that Appellants' specification states on page 8, lines 12-14 states: "The first guide 20, the second guide 21, the third guide 22 and the fourth guide 23 are each **pre-loaded** towards a curve-shaped loading path 28 **by means of a spring**, not shown" (emphasis added). Thus, has provided a meaning to "pre-loaded" and the Examiner's argument for claim 7 is inconsistent with said meaning. Accordingly, the Examiner's rejection of claim 7 is not persuasive.

Additionally, Appellants note that the Examiner has not presented any argument in the Office Action dated 12/19/2002 to support the rejection of claim 7. Thus, anything that the Examiner has stated in the Examiner's Answer relating to claim 7 is a new grounds for rejection which is not permitted. Accordingly, Appellants contend that the Examiner has not established a *prima facie* case of obviousness in relation to claim 7, and the rejection of claim 7 should accordingly be reversed.

Claim 8

The Examiner's Answer alleges that "elements 12b and 12c (which are both guides, and

can be called the first and third guide) which share the same pivot".

In Reply to the Examiner's Answer, Appellants contend that the preceding statement by the Examiner was not present in the Office Action dated 12/19/2002 and thus constitutes a new grounds for rejection which is not permitted. Indeed, the Examiner has not presented any argument in the Office Action dated 12/19/2002 to support the rejection of claim 8.

Accordingly, Appellants contend that the Examiner has not established a *prima facie* case of obviousness in relation to claim 8, and the rejection of claim 8 should accordingly be reversed.

Claim 9

The Examiner's Answer alleges that "Applicant argues that the read/write unit is not directly mounted on the chassis plate, and that several intermediate objects exist between the plate and the unit. The Examiner contends that the claim does not require the mounting of the read/write unit directly on the plate, and indeed such a mounting would be unwise due to vibrations. However, the Examiner maintains that the limitation of this claim is met as nothing precludes the existence of mechanisms that make the journey of the unit safer."

In Reply to the Examiner's Answer, Appellants contend that the Examiner has misrepresented Appellants' argument in Appellants' Supplemental Appeal Brief. Appellants argued that "*Nakanishi et al.* discloses an optical mechanism 1006 which resides in vertical transport mechanism 1007. Vertical transport mechanism 1007 is in turn mounted in sliding plate 75 of damper lock mechanism 1008. Damper lock mechanism 1008 is then mounted on chassis 90. **Appellants note that the optical mechanism 1006 is not mounted on the chassis 90, but is instead isolated from the chassis 90 via several intermediate structures, such as,**

inter alia, the sliding plate 75 and the damper lock mechanism 1008. See col. 13, line 61 to col. 14, line 15; and Figures 9 and 10" (emphasis added). Accordingly, the Examiner's rejection of claim 9 is not persuasive.

Claim 10

The Examiner's Answer alleges that "Applicant argues that claim 10 is not met, and that the construction used by Applicant is novel. The Examiner merely contends that the limitations of the claims are met, and that each element is met. See the rejection. Applicant does not state where the references fail in meeting the limitations of the claim."

In Reply to the Examiner's Answer, Appellants make reference to Appellants' Supplemental Appeal Brief for Appellants' argument in relation to claim 10. Said argument by Appellants is not overcome by the Examiner's Answer.

Claim 12

The Examiner's Answer alleges that "The Examiner contends that the combination of Nakamichi and Umetsaki would provide the necessary teaching for controlling guide arms, and that the movement away from the disk during play is a necessary function in order for the disk player to function. Typically this in response to the movement of the optics unit to engage the disk."

In Reply to the Examiner's Answer, Appellants make reference to Appellants' Supplemental Appeal Brief for Appellants' argument in relation to claim 12. Said argument by Appellants is not overcome by the Examiner's Answer.

Claim 19

The Examiner's Answer alleges that "Applicant argues that the since the players used by the Examiner can accommodate different sized discs that the overall depth of the apparatus cannot be dependent upon the disc diameter. The Applicant argument is flawed in that neither the Applicant's nor the Examiner's cited references, have an overall depth dependent upon the disc diameter. The claim merely refers to a suggested depth of the apparatus. It is that depth that is being claimed, not the discs. Therefore, the depth of players used by the Examiner merely need to be 1.5 time the diameter of the largest disc that the player plays. This is easily met by the references provided."

In Reply to the Examiner's Answer, Appellants make reference to Appellants' Supplemental Appeal Brief for Appellants' argument in relation to claim 19. Said argument by Appellants is not overcome by the Examiner's Answer.

Claim 20

The Examiner's Answer alleges that "Applicant argues claim 20 in the same fashion that claim 1 is argued."

In Reply to the Examiner's Answer, Appellants agree that Appellants' arguments for claim 20 comprise Appellants' arguments for claim 1. However Appellants additionally argued that Nakamichi in view of Umesaki does not teach or suggest the following feature of claim 20: "the discs can be immediately transported from the eject position to the play position without going through the loading position." The Examiner did not address said feature of claim 20 in the Office Action dated 12/19/2002. Accordingly, Appellants contend that the Examiner has not

established a *prima facie* case of obviousness in relation to claim 20, and the rejection of claim 20 should accordingly be reversed

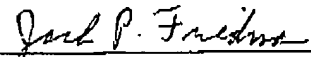
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Summary

In summary, based on the arguments herein and in Appellants' Supplemental Appeal Brief, Appellants respectfully request that the rejection of claims 1, 3-12, 19, and 20 be reversed.

Respectfully submitted,



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Dated: 07/16/2003

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